

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KEVIN RAZZOLI,

Plaintiff,

v.

**JERSEY CITY POLICE DEPARTMENT, et
al.,**

Defendants.

Civil Action No. 16-5545

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

THIS MATTER having come before the Court by way of plaintiff pro se Kevin Razzoli's appeal of the Magistrate Report and Recommendation dated April 26, 2019 (the "R&R"), which was filed in response to defendant's motion to dismiss for discovery violations;

and it appearing that in the R&R, the Magistrate Judge recounted Plaintiff's repeated noncompliance with the Court's Scheduling order, repeated failure to provide documents relating to his alleged injuries, and repeated failure to appear for an independent medical examination ("IME");

and it appearing that the Magistrate Judge gave plaintiff multiple opportunities to provide the discovery and appear for the IME, rescheduled conferences to accommodate the plaintiff, and in response, in each instance, plaintiff provided unsubstantiated excuses;

and it appearing that in considering the appropriate sanction, the Magistrate Judge carefully considered Federal Rule of Civil Procedure 37 and the factors set forth in Poulis v. State Farm, 747 F.2d 863 (3d Cir. 1984), finding that plaintiff's personal responsibility as a pro se, the prejudice to defendants, the history of dilatoriness (extending over a two-year period), and plaintiff's willfulness weigh in favor of a sanction less severe than dismissal;

and it appearing that the sanction imposed, precluding plaintiff from recovering damages for any physical or emotional injury or lost wages suffered in connection with the arrest at issue, was proportionate to the discovery plaintiff refused to provide and also cured the specific prejudice to defendants;

and it appearing that in plaintiff's difficult to decipher appeal, plaintiff vaguely alludes to an undocumented "illness" or "hospitalization" as the reason for not appearing for his IME, but does not represent a willingness to appear in the future or to otherwise provide the ordered discovery;

and it appearing that the Magistrate Judge properly considered Rule 37 and properly applied the Poulis factors;

and for good cause shown;

IT IS on this the 27th day of June, 2019,

ORDERED that the Magistrate Judge's Report and Recommendation is adopted.

/s/ Madeline Cox Arleo
Hon. Madeline Cox Arleo
United States District Judge